



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.29135 OF 2022

Indian Education Society

...Petitioner

*Versus*Assistant Commissioner of Income Tax,
(Exemption), Circle 1 & Ors.

...Respondents

Ms. Radha Halbe, with Mr. Devendra H. Jain, for Petitioner.
Mr. Suresh Kumar, for Respondents-Revenue.

**CORAM: K. R. SHRIRAM &
DR. NEELA GOKHALE, JJ.**
DATED: 12th March 2024

PC:-

1. Petitioner is impugning in this petition an order dated 23rd March 2022 passed under Section 148A(d) of the Income Tax Act, 1961 (“**the Act**”) and the consequential notice dated 25th March 2022 under Section 148 of the Act issued by Respondent No.1. Though various grounds have been raised in the petition, in the impugned order dated 23rd March 2022, it is observed that Petitioner did not reply to the notice dated 11th March 2022 issued under Section 148A(b) of the Act. There is an averment in the petition that the time given for responding was only ten days, i.e., the notice was issued late in the evening of 11th March 2022 which was a Friday and Petitioner was expected to reply by 21st March 2022. Ms. Halbe submitted that between 11th March 2022 and 21st March 2022, there

were two weekends and effectively only six working days were given to reply and hence Petitioner was unable to file a reply. Ms. Halbe submitted that if Petitioner is given an opportunity to reply to the notice under Section 148A(b) of the Act, she is confident that Petitioner will be able to satisfy the Assessing Officer (“AO”) that the notice under Section 148A(b) of the Act will have to be dropped.

2. There is an affidavit in reply filed opposing the petition. At the same time, considering the facts and circumstances of the case that Petitioner is a Public Trust and running a school, in our view, Petitioner should be given an opportunity to reply to the notice dated 11th March 2022.

3. In the circumstances, without expressing any opinion on the merits of the matter, we hereby quash and set aside the impugned order dated 23rd March 2022 passed under Section 148A(d) of the Act and remand the matter for *de novo* consideration. The consequent notice dated 25th March 2022 under Section 148 of the Act also hereby quashed and set aside.

4. Within four weeks of this order being uploaded, Petitioner shall reply to the notice dated 11th March 2022 issued under Section 148A(b) of the Act. To the reply, Petitioner may also annex documents which have to be taken into account while deciding the matter.

5. Within six weeks thereafter Respondents shall dispose the notice, but before passing any order which shall be a reasoned order dealing with all submissions of Petitioner, a personal hearing shall also be granted, notice whereof shall be communicated at least five working days in advance. The time from 11th March 2022 till fresh order that will be passed under Section 148A(d) of the Act shall be treated as excluded period while calculating the time period prescribed under Section 149 read with Section 151 of the Act.

6. Petition disposed.

(DR. NEELA GOKHALE, J.)

(K. R. SHRIRAM, J.)